



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision: Leave for Review Denied
Original Decision dated March 21, 2011 confirmed

REVIEW CONSIDERATION DECISION

Dispute Codes: CNR MNDC

This is an application for review filed on March 28, 2011 by the tenant for the review of a decision dated March 21, 2011 and received according to the applicant for review on March 25, 2011.

The applicant relies on section 79(2)(b) of the *Residential Tenancy Act* (the “Act”) which provides that the director may grant leave for review if a party has new and relevant evidence that was not available at the time of the original hearing.

The applicant submitted copies of letters to the landlord in which he asked the landlord to confirm the party to whom the tenant should be paying rent. The applicant claimed that the letters were unavailable at the time of the hearing because they were in storage.

In order to be successful in his application, the applicant must prove that the evidence submitted with their application was unavailable at the time of the hearing and that it is relevant. I find that had the applicant exercised due diligence, he could have retrieved the letters from storage prior to the hearing. With respect to whether the letters are relevant, at the hearing the tenant acknowledged that he had not paid rent and the decision respecting end of the tenancy was made on that basis. The dispute resolution

officer's decision would not have varied had she had the letters before her. The letters appear to establish no basis under which the applicant would have been entitled to a monetary order and I find that they were also irrelevant to that application. I therefore find the application must be dismissed.

For the above reasons I dismiss the application for leave for review. The original decision dated March 21, 2011 is confirmed.

Dated April 18, 2011

Dispute Resolution Officer